



DEPARTMENT OF THE NAVY
BOARD FOR CORRECTION OF NAVAL RECORDS
701 S. COURTHOUSE ROAD, SUITE 1001
ARLINGTON, VA 22204-2490

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Docket No: 1939-22
2178-03
Ref: Signature Date

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Dear Petitioner:

This is in reference to your application for correction of your naval record pursuant to Section 1552 of Title 10, United States Code. After careful and conscientious consideration of relevant portions of your naval record and your application, the Board for Correction of Naval Records (Board) found the evidence submitted insufficient to establish the existence of probable material error or injustice. Consequently, your application has been denied.

Although you did not file your application in a timely manner, the statute of limitations was waived in accordance with the 25 August 2017 guidance from the Office of the Under Secretary of Defense for Personnel and Readiness (Kurta Memo). A three-member panel of the Board, sitting in executive session, considered your application on 27 June 2022. The names and votes of the panel members will be furnished upon request. Your allegations of error and injustice were reviewed in accordance with administrative regulations and procedures applicable to the proceedings of this Board. Documentary material considered by the Board consisted of your application together with all material submitted in support thereof, relevant portions of your naval record, and applicable statutes, regulations, and policies, to include Kurta Memo, the 3 September 2014 guidance from the Secretary of Defense regarding discharge upgrade requests by Veterans claiming post-traumatic stress disorder (PTSD) (Hagel Memo), and the 25 July 2018 guidance from the Under Secretary of Defense for Personnel and Readiness regarding equity, injustice, or clemency determinations (Wilkie Memo). The Board also considered the advisory opinion (AO) furnished by a qualified mental health provider and your response to the AO.

You enlisted and began a period of active duty in the Navy on 30 October 1980. On 12 October 1982, you received nonjudicial punishment (NJP) for a one day unauthorized absence (UA) in violation of Article 86, Uniform Code of Military Justice (UCMJ). You received a second NJP, on 1 August 1983, for a three day and ten day UA, two specifications of being absent from your appointed place of duty, and missing ship's movement. These offenses were in violation of Articles 86 and 87, Uniform Code of Military Justice (UCMJ). On 27 February 1984, you received a third NJP for being absent from your appointed place of duty in violation of Article 86, UCMJ. Your

final NJP occurred, on 18 June 1984, for two specifications of being absent from your appointed place of duty and disobeying a lawful order from a Petty Officer in violation of Articles 86 and 91, UCMJ. On 22 June 1984, you were notified of administrative separation processing by reason of misconduct due to pattern of misconduct and commission of a serious offense. You exercised your procedural right to consult with counsel and waived having your case heard before an administrative discharge board. Your Commanding Officer recommended you be discharged with an Other Than Honorable (OTH) characterization of service and, on 23 July 1984, you were so discharged. After your discharge from your initial enlistment, you served honorably in the Army National Guard, Air National Guard, and Naval Reserve during four periods of time from July 1991 to August 2014.

You previously applied to the Naval Discharge Review Board and were denied relief on 4 September 1986. In that application, you argued that a discharge upgrade was appropriate since your misconduct was not serious enough to warrant an OTH, your job assignment was too stressful and caused you to perform inconsistently, and your possessed good post-service conduct. On 9 July 2003, this Board also denied your request for relief based on your history of misconduct.

The Board carefully considered all potentially mitigating factors to determine whether the interests of justice warrant relief in your case in accordance with the Wilkie Memo. These included, but were not limited to, your post-service accomplishments, to include additional service, and desire to upgrade your discharge. In addition, the Board considered your contentions that during your first enlistment you experienced three traumatic events that caused you to incur PTSD which contributed to your misconduct and discharge. The events included a collision between your ship and another while at sea, a fire that broke out on your ship which resulted in the death and injury of shipmates, and the death of your best friend due to drowning. For purposes of clemency consideration, the Board noted you provided supporting documentation describing post-service accomplishments but no advocacy letters.

The Board also evaluated the AO in making its determination. The AO noted in pertinent part:

During military service, he was evaluated and received no clinical mental health diagnosis, although personality traits were noted. These traits were based on observed behaviors and performance during his period of service, the psychological evaluation, and the information he chose to disclose at the time. Post-service, the VA has determined service connection for PTSD, and a civilian psychologist has opined that some of his misconduct could be attributed to symptoms of PTSD. It is possible that his misconduct from 1984 (UA and disobedience) could be considered symptoms of unrecognized PTSD, but he also had similar misconduct prior to his purported traumatic events, which can not be considered symptoms of unrecognized PTSD (UA and missing ship's movement). It is also possible that his misconduct in 1984 could be considered a continuation of the "immature personality traits" noted by the military psychologist contemporary to his military service.

